



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DAC
\$ (MHS)
#11
2005 AUG -8 PM 10:06
PATENT & TRADEMARK OFFICE

In re patent of:

RECEIVED

Anthony Brown

AUG 11 2005

Atty. Docket: 004156.78504

Patent No.: 6,076,044

OFFICE OF PETITIONS

Issued: June 13, 2000

RECEIVED

For: Weather Detector

AUG 11 2005

OFFICE OF PETITIONS

**Petition Under 37 CFR 1.183 to Suspend the Rules and Expedite Action on
Petition to Accept an Unintentionally Delayed
Payment of a Maintenance Fee Under 37 CFR 1.378 (c)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

08/09/2005 DALLEN 00000011 190733 6076044
01 FC:1551 900.00 DA
02 FC:1558 1640.00 DA

Sir:

This is a petition to suspend the rules and act upon the "Petition to Accept Unintentionally Delayed Payment of a Maintenance Fee Under 37 CFR 1.378(c)," appended hereto, as expeditiously as possible.

A complaint is pending in the ITC on behalf of Richmond IP Holdings, LLC, the owner of the above-identified Patent 6,076,044, claiming infringement *inter alia* of this issued to Brown (the Brown Patent.) Trial is set for November 14, 2005.

Upon discovery that U.S. Patent 6,076,044 had expired due to failure to pay the 3.5 year maintenance fee, Litigation counsel took immediate action to determine the facts and file the concurrently filed Petition to Accept Unintentionally Delayed Payment of a Maintenance Fee signed by John H. Thomas of Richmond IP Holdings, LLC.

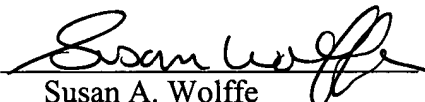
Any delay in acting on petitioner's Petition to Accept Late Payment of a Maintenance Fee Under 37 CFR 1.378 would unduly prejudice its standing in the court.

It is petitioner's understanding that petitions are normally acted upon in the order received, a procedure similar to that utilized for the examination of patent applications. Thus, the instant petition for expedited action should be considered in the nature of a "petition to make special" under MPEP 702.02. Specifically, Petitioner has met the requirements of expedited action as outline under MPEP 708.02(II) in that by filing the complaint petitioner has specifically claimed that a) there is an infringing device or product on the market and b) that a comparison is made between the alleged infringing device and the claims of the application and petitioner believes that at least some of the claims are unquestionably infringed. Obviously since this is an issued patent rather than an application, there is no need to meet requirement c) as identified in MPEP 708.02(II).

It is requested that the USPTO, under these circumstances, expeditiously consider petitioner's Petition to Accept Late Payment of a Maintenance Fee Under 37 CFR 1.378(c) in order that all of the rights of petitioner may be protected.

The Commissioner is authorized to charge the \$130 Petition fee to our Deposit Account No. 19-0733. However, if additional fees are required or an overpayment of fees made, please debit or credit our Deposit Account 19-0733, as needed.

Respectfully submitted,

By: 
Susan A. Wolffe
Registration No. 33,568

BANNER & WITCOFF, LTD.
1001 G Street, N.W. – 11th Floor
Washington, D.C. 20001
Telephone: 202/508-9100

Dated: August 2, 2005

RECEIVED

AUG 11 2005

OFFICE OF PETITIONS



PTO/SB/66 (07-05)

Approved for use through 05/31/2006. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))	Docket Number (Optional) 004156.78504
---	--

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,076,044 Application Number 09/246,784

Issue Date June 13, 2000 Filing Date February 1, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____;
original application number _____,
original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international
application _____ filed on _____

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date

Signature

Typed or printed name of person signing Certificate

[Page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input checked="" type="checkbox"/> \$ 900	3 1/2 yr fee	(1551)	<input type="checkbox"/> \$ _____	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$ _____	7 1/2 yr fee	(1552)	<input type="checkbox"/> \$ _____	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$ _____	11 1/2 yr fee	(1553)	<input type="checkbox"/> \$ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 900

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED \$ 1640

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ _____☒ Please charge Deposit Account No. 19-0733 the sum of \$ 2540. A duplicate copy of this authorization is attached.☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 19-0733. A duplicate copy of this authorization is attached.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

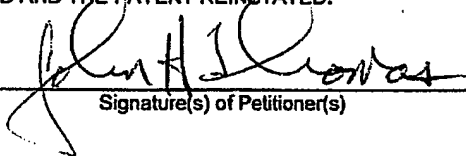
OR ☒ Credit to Deposit Account No. 18-0733
☐ Send refund check.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

8 STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.


Signature(s) of Petitioner(s)

August 2, 2005
Date

John H. Thomas, Richmond IP Holdings, LLC
Typed or printed name(s)

Registration Number, if applicable

(804)344-8130
Telephone Number

536 Granite Avenue
Address

Richmond, VA 23226
Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES:

☒ Maintenance Fee payment
☒ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)
☐